



# City of Marietta

## Meeting Minutes

### COMMITTEE OF THE WHOLE

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

**William B. Dunaway, Mayor**  
**Annette Paige Lewis, Ward 1**  
**Grif Chalfant, Ward 2**  
**Holly Marie Walquist, Ward 3**  
**Irvan A. "Van" Pearlberg, Ward 4**  
**Rev. Anthony Coleman, Ward 5**  
**James W. King, Ward 6**  
**Philip M. Goldstein, Ward 7**

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Monday, December 8, 2008

5:15 PM

4th Floor Conference Room

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**Presiding:** William B. Dunaway

**Present:** Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant, Annette Lewis and Van Pearlberg

**Also Present:**

*William Bruton, City Manager*

*Douglas Haynie, City Attorney*

*Stephanie Guy, City Clerk*

#### **CALL TO ORDER:**

*Mayor William B. Dunaway called the meeting to order at 5:16 p.m.*

#### **MINUTES:**

##### **20081475 Regular Meeting - November 6, 2008**

Review and approval of the November 6, 2008 regular meeting minutes.

*Motion to approve the November 6, 2008 regular meeting minutes with an amendment on page 4 regarding the Executive Session, which should read, "A motion was made in open session to close the Executive Session."*

**A motion was made by Council member Chalfant, seconded by Council member King, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 4 - 0 - 1**

**Approved as Amended**

Abstain: Holly Walquist

Absent: Annette Lewis and Rev. Anthony Coleman

#### **BUSINESS:**

##### **20081486 BLW Meeting**

Report by Jim King on the actions of the Board of Lights and Water at their Monday, December 8, 2008 meeting.

*Council member King reported on the actions of the Board of Lights and Water at their December 8, 2008 regular meeting. Finance Director Sam Lady reported on the BLW finance statements. (See the December 8, 2008 regular Board of Lights and Water meeting minutes for details.)*

**This matter was Reported.**

*Council member Rev. Anthony Coleman arrives.*

**20081479 National League of Cities (NLC)**

Motion to approve travel and training expenses for Mayor and Council members who wish to attend the National League of Cities (NLC) 2009 Annual Congressional City Conference in Washington, DC on March 14-18, 2009.

**A motion was made by Council member Walquist, seconded by Council member Goldstein, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:**

**Vote: 6 - 0 - 0**

Absent: Annette Lewis

**Recommended for Approval - Consent Agenda**

**20080725 Ethics Committee Recommendation**

Approval of an Ordinance amending Code Section 1-14-4-180 , Section 1, Advisory Opinions to read "Should the Ethics Committee not render an opinion prior to the time discussion on the matter occurs or a vote is taken on the matter or issue, the elected official may make a written request of the City Attorney for an opinion on the matter and setting forth the facts and circumstances. The City Attorney shall render a ruling if there is or is not a conflict and/or prohibition on the elected official's participation and/or voting and shall send a copy of his opinion to the members of the Ethics Committee and file a copy with the City Clerk. The elected official shall be able to rely upon the City Attorney's ruling. If a complaint is filed against the elected official based upon the elected official's vote or participation on the matter, the Ethics Committee shall dismiss the complaint.

The Ethics Committee may review the opinion of the City Attorney. If the Ethics Committee disagrees with the ruling of the City Attorney, future participation or vote by the Elected Official would not have the protection of the City Attorney's Opinion on the stated facts."

*Discussion was held. This matter was recommended for the Council agenda, with amended language provided by the City Attorney.*

**A motion was made by Council member King, seconded by Council member Coleman, that this matter be Recommended for Council Agenda Non Consent. The motion carried by the following vote:**

**Vote: 5 - 0 - 1**

Abstain: Philip M. Goldstein

Absent: Annette Lewis

**Recommended for Council Agenda Non Consent**

**20081307 Parking Needs Study**

Discussion of parking needs and proposed new deck.

*Council member Goldstein submitted a disclosure stating that he, his family members and/or entities own parking lots in the downtown area, but have no ownership interest in the proposed Cobb County parking deck. He leases a parking lot on Mill Street to Lanier Parking and has other lots that are for monthly parking.*

**This matter was Discussed.**

*Council member Annette Lewis arrives.*

**20081452      175th Celebration**

Discussion regarding the Chairman and Co-chairman of the Steering Committee for the 175th celebration organization.

*Motion to appoint Kim Gresh and Earl Reece as Co-Chairs and Terri Bunton as an alternate for the 175th Celebration Steering Committee.*

**A motion was made by Council member Walquist, seconded by Council member Chalfant, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:**

**Vote: 6 - 0 - 0**

**Recommended for Approval - Consent Agenda**

Absent for the vote: Rev. Anthony Coleman

**20081499      Georgia Municipal Association Revenue Recovery program.**

Review of contract to participate in Georgia Municipal Association Revenue Recovery program.

*Motion to approve Collection Agency Contract with Penn Credit Corporation subject to the final approval of the City Manager and City Attorney provided that the city shall not turn over any ad valorem property taxes to the agency for collection pursuant to said contract.*

**A motion was made by Council member Walquist, seconded by Council member Chalfant, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Recommended for Approval - Consent Agenda**

**20081503      Municipal Competitive Trust**

Motion to select \_\_\_\_\_ and \_\_\_\_\_ as the officials authorized to communicate the decisions of the City of Marietta to MEAG with regard to deposits or withdrawals of any city subaccounts established by the Municipal Competitive Trust.

*A motion was made by Council member Goldstein, seconded by Council member Coleman, to select the City Manager and City Finance Director as the officials authorized to communicate the decisions of the City of Marietta to MEAG with regard to deposits or withdrawals of any city subaccounts established by the Municipal Competitive Trust.*

*A substitute motion was made by Council member Pearlberg, seconded by Council member King, to select the City Manager and BLW General Manager.*

*Discussion was held.*

*A substitute motion was made by Council member Walquist to select the BLW Board Chairman and the BLW Board Council Appointee. The motion dies for lack of a second.*

*A substitute motion was made by Council member Lewis, seconded by Council member Coleman, to select the City Manager and the BLW Board Council Appointee. The motion fails by the following vote:*

*Vote: 3 - 3 - 1*

*Failed*

*Grif Chalfant abstains*

*Philip M. Goldstein, Jim King and Van Pearlberg opposed*

*Mayor Dunaway explained that the substitute motion made by Council member Pearlberg is now on the floor.*

*Motion to select the City Manager and the BLW General Manager as the officials authorized to communicate the decisions of the City of Marietta to MEAG with regard to deposits or withdrawals of any city subaccounts established by the Municipal Competitive Trust.*

**The motion was made by Council member Pearlberg, seconded by Council member King, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:**

**Vote: 5 - 2 - 0**

**Recommended for Approval - Consent Agenda**

Vote Against: Philip M. Goldstein and Rev. Anthony Coleman

#### **20081395 Resolution of the Municipal Competitive Trust**

Approval of a Resolution to execute the election for participant directed voluntary deposits into the Municipal Competitive Trust for the Year 2009.

**A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Recommended for Approval - Consent Agenda**

#### **20081497 MRC Work Plan Update**

Update from council/MRC discussions on the 2008/09 Marietta Redevelopment Work Plan.

**This matter was Referred to the ECONOMIC/COMMUNITY DEV. COMMITTEE**

#### **20081370 Settlement Agreement with Cobb EMC**

Motion to approve a Settlement Agreement and Release of Claims per the attached documents.

A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:

Vote: 7 - 0 - 0

Recommended for Approval - Consent Agenda

**20081371 Franchise Agreement with Cobb EMC**

Ordinance approving a Franchise Agreement between the City of Marietta and Cobb Electric Membership Corporation per the attached document.

A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Recommended for Approval - Consent Agenda. The motion carried by the following vote:

Vote: 6 - 0 - 1

Recommended for Approval - Consent Agenda

Abstain: 1 - Philip M. Goldstein

**20081485 Draft City Council Agenda**

Review of the Draft Agenda for the December 10, 2008, City Council Meeting.

*-under Proclamations: agenda item 20081484 was removed from the agenda.*

*-under Minutes: agenda item 20081474 was added to the consent agenda.*

*-under Ordinances: agenda items 20081462 and 20081465 were removed from the agenda.*

*-under City Attorney: agenda items 20081370 and 20081371 were added to the consent agenda.*

*-under Other Business: agenda items 20081502 and 20081473 were added to the consent agenda.*

**This matter was Discussed.**

**20081500 Executive Session**

Executive Session to discuss Legal, Personnel and/or Real Estate issues.

A motion was made in open session by Council member King, seconded by Council member Walquist, to enter an Executive Session to discuss real estate acquisition. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

For: Annette Paige Lewis, Grif Chalfant, Holly Marie Walquist, Van Pearlberg, Rev. Anthony Coleman, James W. King, and Philip M. Goldstein

*The Executive Session was held (the Chairman's affidavit is attached hereto as Attachment A).*

**A motion was made in open session by Council member Coleman, seconded by Council member King, to close the Executive Session. The motion carried by the following**

**Vote: 7 - 0 - 0**

**Approved**

*City Attorney Douglas Haynie briefly stepped out of the conference room.*

*\*A motion was made by Council member King, seconded by Council member Walquist, to accept donation of a portion of property from City Partners, LLP, located at 219 Roswell Street for the Roswell Street Streetscapes project. The motion carried by the following vote:*

*Vote: 6 - 0 - 0*

*Recommended for Approval - Consent Agenda*

*Absent: Philip M. Goldstein*

*(See agenda item 20081509)*

*The City Attorney returned to the conference room.*

*\*A motion was made by Council member Walquist, seconded by Council member King, to authorize the acquisition of property located at 251 Roswell Street owned by Spinks Enterprises, LLP on behalf of the City of Marietta by means of eminent domain. The motion carried by the following vote:*

*Vote: 7 - 0 - 0*

*Recommended for Approval - Consent Agenda*

*(See agenda item 20081507)*

*\*A motion was made by Council member Walquist, seconded by Council member King, to authorize the acquisition of property located at 932 Roswell Street owned by W.A. Spinks on behalf of the City of Marietta by means of eminent domain. The motion carried by the following vote:*

*Vote: 7 - 0 - 0*

*Recommended for Approval - Consent Agenda*

*(See agenda item 20081512)*

*\*A motion was made by Council member Walquist, seconded by Council member King, authorizing partial acquisition of property owned by A&B Partners, located at 344 South Fairground Street, in exchange for \$20,860 for the Roswell Street Streetscape project. The motion carried by the following vote:*

*Vote: 7 - 0 - 0*

*Recommended for Approval - Consent Agenda*

*(See agenda item 20081508)*

*\*A motion was made by Council member King, seconded by Council member Goldstein, to accept partial acquisition of property from Emerson Overlook, LLC, for property located at 456 Roswell Street for \$300,000. The motion carried by the following vote:*

*Vote: 5 - 2 - 0*

*Recommended for Approval - Consent Agenda*

*Voting Against: Grif Chalfant and Van Pearlberg*

*(See agenda item 20081511)*

**ADJOURNMENT:**

*The meeting was adjourned at 7:20 p.m.*

**Respectfully submitted,**

\_\_\_\_\_  
**Stephanie Guy, City Clerk**

**Approved:** \_\_\_\_\_